

REMARKS

This paper is filed responsive to the Office Action mailed December 17, 2003. Presently, claims 1 to 4, 6 to 12, 14, and 19 to 20 stand rejected under 35 U.S.C. § 103(a) over the Hatanaka et al. EP 0 321 908 application in combination with Leibold DE 26 39 301 A1. Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) over Hatanaka et al. in combination with Leibold and Feasey et al. US Patent No. 5,130,053. Claims 5, 17 and 18 stand objected to as being dependent upon a rejected base claim. Applicants respectfully traverse the rejections and request reconsideration and reexamination of the application.

The Examiner has indicated that there is no record of the IDS submitted May 17, 2001. Applicants enclose herewith a copy of the IDS, including the postcard stamped by the PTO acknowledging receipt of this IDS, and request entry of this IDS and consideration of the references. All of the references, with the exception of one, are US patents and due to their voluminous nature are not being re-submitted. A copy of the one reference which is not a US patent is enclosed. If the Examiner wishes copies of the references he is asked to please contact the undersigned attorney by telephone and copies will be made and forwarded to the Examiner.

Applicants note with appreciation the Examiner's indication that claims 5, 17 and 18 contain allowable subject matter and would be allowed if rewritten in independent form incorporating all of the limitations of the base and intervening claims. They have been so amended.

The Examiner has rejected under 35 U.S.C. § 103(a) claims 1 to 4, 6 to 12, 14, and 19 to 20 stand rejected over the Hatanaka et al. EP 0 321 908 application in combination with Leibold DE 26 39 301 A1 and claims 15 and 16 over Hatanaka et al. in combination with Leibold and Feasey et al. US Patent No. 5,130,053. Applicants submit that there is no suggestion for making the alleged combination.

Leibold discloses an evaporator for producing ethylene oxide and other toxic vapors and which comprises a vessel containing heated liquid into which is immersed a coiled tube. The

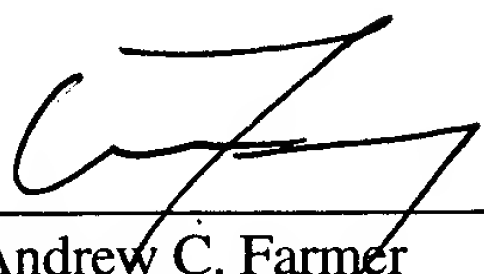
vapors are produced in the coiled tube and a throttling device 7 limits the flow of these vapors so that too much does not flow at once and the vaporizing can run in continuous rather than batch mode. A Derwent English language abstract of Leibold is enclosed.

Hatanaka et al. heat small quantities of hydrogen peroxide in a flow of carrier gas, send it through a baffle and then send it off to condense upon a surface to perform sterilization of that surface. Hatanaka et al. do not disclose a flow restriction between the baffle and the outlet.

One of skill in the art would not be motivated to combine the teachings of Leibold with those of Hatanaka et al. Leibold lacks a good method for controlling the rate of evaporation in the tube and so includes a flow restriction to prevent surges. The arrangement of Hatanaka et al. requires no such restriction as the evaporation is easily controlled by how fast drops of hydrogen peroxide are fed through the nozzle 20. No throttle would be necessary to prevent surges and would be contraindicated as it would add an unnecessary pressure drop into the system thus reducing energy efficiency. The Examiner asserts that adding the throttle of Leibold to Hatanaka et al. would allow the apparatus of Hatanaka et al. "to be used continuously instead of only intermittently, in a controlled manner without danger to the surrounding and personnel." As can be seen, such is not necessary when the rate is controlled by the rate of drops coming out of the nozzle. Hatanaka et al. can be operated continuously without any flow restriction. Further, a flow restriction may slightly increase the danger rather than decrease it as it could cause a pressure back-up pushing the atmosphere upstream of the flow restriction closer to an explosive state. In any event, it is not needed and one of skill in the art would not be motivated to make the alleged combination.

Applicants submit that the application is presently in condition for allowance and request favorable reconsideration and early notice of allowance.

Respectfully submitted,

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Encls.